

**BEFORE THE APPEALS BOARD
FOR THE
KANSAS DIVISION OF WORKERS COMPENSATION**

DENNIS D. COULSON

Claimant

VS.

RESIDENCE INN EAST

Respondent

AND

CONTINENTAL INSURANCE CO.

Insurance Carrier

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Docket No. 199,253

ORDER

Claimant requested Appeals Board review of then Assistant Director Brad E. Avery's March 3, 1998, Award. The Appeals Board heard oral argument on October 9, 1998, in Wichita, Kansas.

APPEARANCES

Claimant appeared by his attorney, Timothy J. King of Wichita, Kansas. Respondent and its insurance carrier appeared by their attorney, Christopher J. McCurdy appearing for D. Steven Marsh of Wichita, Kansas. There were no other appearances.

RECORD AND STIPULATIONS

The Appeals Board has considered the record and has adopted the stipulations listed in the Award.

ISSUES

The claimant was denied workers compensation benefits as the Assistant Director found claimant had failed to prove he suffered an accidental injury that arose out of and in the course of his employment on February 17, 1995. Claimant appealed and requested the Appeals Board review that finding. Claimant contends he proved he injured his low back while carrying a rollaway bed up the motel stairs at work on February 17, 1995. Claimant further contends, because of this low-back injury, he was unable to return to work as a security guard for the respondent and has been unable to work since the February 17, 1995, accident. The claimant requests the Appeals Board reverse the Assistant Director and find he injured his low back at work and he is entitled to a substantial work disability.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

After reviewing the record, considering the briefs, and hearing the arguments of the parties, the Appeals Board finds the Award should be affirmed.

The record as a whole proves claimant exaggerated his symptoms and he has made no effort to either improve his physical condition or to obtain any type of employment. The Appeals Board finds claimant has attempted to manipulate the workers compensation system for his own personal economic gain. Claimant's veracity and credibility is therefore highly questionable. The Appeals Board concludes, since claimant cannot be believed as to the extent of his injuries, his uncorroborated testimony that he injured his back at work while carrying a rollaway bed upstairs is, likewise, not believable.

Furthermore, the Appeals Board agrees with the Assistant Director's analysis of the evidence as set forth in the Award. The Appeals Board finds the Assistant Director's Award sets out findings of fact and conclusions of law that are accurate and supported by the record. It is not necessary to repeat those findings and conclusions in this Order. Therefore, the Appeals Board adopts the Assistant Director's findings and conclusions as its own as if specifically set forth herein.

AWARD

WHEREFORE, it is the finding, decision, and order of the Appeals Board that Assistant Director Brad E. Avery's March 3, 1998, Award, should be, and is hereby, affirmed.

The Appeals Board adopts the Assistant Director's order set out in the Award in regard to the payment of court reporter fees.

IT IS SO ORDERED.

Dated this ____ day of November 1998.

BOARD MEMBER

BOARD MEMBER

BOARD MEMBER

c: Timothy J. King, Wichita, KS
D. Steven Marsh, Wichita, KS
Brad E. Avery, Administrative Law Judge

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Philip S. Harness, Director